

So Ordered.



Patricia C Williams)
Patricia C Williams

**Patricia C. Williams
Bankruptcy Judge**

Dated: August 21st, 2013

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

DC No. 11-CV-360-RMP

LLS AMERICA, LLC,

Case No. 09-06194-PCW11

Debtor(s).

BRUCE P. KRIEGMAN, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America, LLC,

Adversary No. 11-80297-PCW11

Plaintiff(s),

**REPORT AND RECOMMENDATION
RE: PLAINTIFF'S MOTION FOR
ENTRY OF DEFAULT JUDGMENT
AGAINST DEFENDANT COLE
MCDONALD (ECF NO. 539)**

vs.

0817726 BC, LTD., et al.,

Defendant(s).

16 The Honorable Patricia C. Williams, sitting in the United States Bankruptcy
17 Court for the Eastern District of Washington, hereby files this Report and
18 Recommendation regarding plaintiff's Motion for Entry of Default Judgment Against
19 Defendant Cole McDonald (ECF No. 539) filed with the bankruptcy court in this
20 adversary proceeding.

1 This Report and Recommendation is made pursuant to the Honorable Rosanna
2 Malouf Peterson's Order Granting Joinder and Withdraw of Reference and Referring
3 Back to Bankruptcy Court for Further Proceedings entered on April 25, 2012 (ECF
4 No. 34) in district court case No. 11-CV-360-RMP.

5 The recommendation is that plaintiff's Motion for Entry of Default Judgment
6 Against Defendant Cole McDonald (ECF No. 539) be granted and the attached
7 Default Judgment be entered in this adversary proceeding. The basis for this
8 recommendation is that an Order of Default was entered by the bankruptcy court on
9 July 17, 2013 (ECF No. 507).

10 ///END OF REPORT AND RECOMMENDATION///

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

In Re:	US District Case No. 11-CV-360-RMP
LLS AMERICA, LLC,	Bankruptcy No. 09-06194-PCW11
	Debtor.
BRUCE P. KRIEGMAN, solely in his capacity as court-appointed Chapter 11 Trustee for LLS America LLC,	Adversary No. 11-80297-PCW 11
Plaintiff,	DEFAULT JUDGMENT AGAINST DEFENDANT COLE MCDONALD
v.	
0817726 BC, LTD., et al.,	
	Defendants.

JUDGMENT SUMMARY

Judgment Creditor: Bruce P. Kriegman, solely in his capacity as the Liquidating Trustee under the Confirmed Plan of the Debtor

Attorneys for Judgment Creditor: Witherspoon Kelley

DEFAULT JUDGMENT- 1

{S0746872; 1 }



WITHERSPOON-KELLEY

Attorneys & Counselors

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1 Judgment Debtor: Cole McDonald
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3 Principal Amount of \$89,136.67 CAD
4 Judgment: \$ 250.00 US
5 Interest on Judgment: Weekly Average of One-Year Constant Maturity
6 (nominal) treasury yield as published by the
Federal Reserve System (28 USC § 1961)

7 This Court having previously entered an Order of Default against
8 Defendant Cole McDonald (Adv. Doc. No. 507), and having reviewed the
9 previously filed Memorandum of Authorities (Adv. Doc. No. 499) and Affidavit
10 of Curtis Frye (Adv. Doc. No. 500), and the Affidavit of Shelley N. Ripley in
11 Support of Plaintiff's Motion for Default Judgment filed herewith, and being fully
12 advised in the premises,

13 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the
14 Plaintiff, Bruce P. Kriegman, solely in his capacity as court-appointed Chapter 11
15 Trustee for LLS America, LLC, shall have a judgment against the Defendant Cole
16 McDonald, as follows:

17 1. Monetary Judgment in the amount of CAD \$89,136.67, pursuant to
18 11 U.S.C. § 550 and RCW 19.40.071;

19 2. Transfers in the amount of CAD \$82,636.67 made to the Defendant
20 within four years prior to the Petition Filing Date are hereby avoided and Plaintiff
21 may take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544,
22 550, 551 and 548(a) and (b) and RCW 19.40.041(1) and (2) and RCW 19.40.071;

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28 DEFAULT JUDGMENT- 2

{S0746872; 1 }

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3. Transfers in the amount of CAD \$6,500.00 made to the Defendant more than four years prior to the Petition Filing Date should be avoided and Plaintiff should be authorized to take all necessary action to preserve the same, pursuant to 11 U.S.C. §§ 544, 550 and 551 and RCW 19.40.041(1) and 19.40.071;

4. All said transfers to Defendant Cole McDonald are hereby set aside and Plaintiff shall be entitled to recover the same, or the value thereof, from Defendant Cole McDonald for the benefit of the estate of LLS America, pursuant to 11 U.S.C. §§ 544, 550 and 551;

5. A constructive trust is hereby established over the proceeds of all transfers in favor of the Trustee for the benefit of the estate of LLS America; and

6. Plaintiff is hereby awarded costs (i.e. filing fee) in the amount of \$250.00 USD, for a total judgment of CAD \$89,136.67, plus \$250.00 USD, which shall bear interest equal to the weekly average of one-year constant maturity (nominal) treasury yield as published by the Federal Reserve System.

Entered this ____ day of _____, 2013.

HONORABLE ROSANNA PETERSON

Presented by:
WITHERSPOON · KELLEY

s/ Shelley N. Ripley
Shelley N. Ripley, WSBA No. 28901
Daniel J. Gibbons, WSBA No. 33036
Attorneys for Bruce Kriegman, Chapter 11 Trustee

DEFAULT JUDGMENT- 3

Wk WITHERSPOON•KELLEY
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{S0746872; 1 }

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